



Legislative Bulletin.....May 16, 2007

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H.R. 1585 — Amendments (31-50) to the National Defense Authorization Act for Fiscal Year 2008 - Part 2

H.R. 1585, the National Defense Authorization Act for Fiscal Year 2008 (sponsored by Rep. Skelton, D-MO), is being considered on the House floor today, May 16, 2007, subject to a structured rule (H.Res. 403), making in order 50 amendments (only those amendments preprinted in the Rules Committee report), each debatable for 10 minutes. The rule allows for the Armed Services Chairman to offer amendments en bloc (only those preprinted amendments not earlier disposed of), and allows for 20 minutes of debate for each set of *en bloc* amendments. The rule allows one motion to recommit with or without instructions.

The rule waives all points of order except for clauses 9 and 10 of Rule XXI (regarding PAYGO and earmarks/limited tax benefits) and allows the Chair to postpone consideration of the legislation at any time during its consideration.

Note: The summaries below (of amendments 31-50) are based on RSC staff's review of actual amendment text and may therefore differ substantially from the summaries on the Rules Committee website. For a summary of the underlying bill, see a separate RSC document released earlier today.

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31. Sessions (R-TX) #12. Clarifies that section 222 of the bill (regarding ballistic missiles) does **not prohibit** the use of funds authorized in the section “to place developmental missile defense systems on operational alert to respond to an immediate threat posed by ballistic missiles.”

32. Holt (D-NJ) #21. Requires the President to “take such actions as are necessary” to ensure the videotaping of any strategic interrogation (defined in the amendment) or other pertinent interaction between an individual who is a detainee or prisoner in the custody of the Armed Forces for the purpose of gathering intelligence, and a member of the Armed Forces, an intelligence operative of the United States, or a contractor of the United States. Directs the President to ensure that the following organizations are granted access to detainees or prisoners in the custody of the Armed Forces: the International Federation of the International Committee of the Red Cross and the Red Crescent, the United Nations High Commissioner for Human Rights, and the United Nations Special Rapporteur on Torture. Directs the Judge Advocates General (JAG) to develop uniform guidelines designed to ensure that the videotaping required is

sufficiently expansive to prevent any abuse of detainees and prisoners and violations of law binding on the U.S.

33. Schakowsky (D-IL) / Price, David (D-NC) #39. Amends sections 831 in the underlying bill regarding restrictions on contracts in Iraq and Afghanistan.

The provision in section 831 (in the underlying bill) would require the Secretary of Defense, the Secretary of State, and the Administrator of the U.S. Agency for International Development (USAID) to enter into a memorandum of understanding regarding matters related to contracting for contracts in Iraq or Afghanistan, and would prohibit DoD, DoS, or USAID from awarding contracts in Iraq or Afghanistan after January 1, 2008 unless the aforementioned memorandum of understanding (MOU) has been signed by all parties and the agency is using the common database identified in the memorandum to track contracts in Iraq and Afghanistan. The current provision would allow the President to waive the restriction in writing (for 30 days), and renew the waiver any number of times.

This amendment would require the President to state that “there would be substantial harm to critical national security objectives...” in his written waiver, and would only allow one renewal of the waiver for an additional 45-day period. The amendment would add more items that the MOU must address, including responsibility to issue guidance on equipment used by contractor personnel, and collection and maintenance of information on casualties suffered by personnel working on contracts in Iraq or Afghanistan. Requires that the MOU be provided to Congress within 30 days after being signed, and requires that DoD, DoS, and USAID provide access to the common database to the relevant committees in Congress.

34. Inslee (D-WA) #123. Requires DoD to conduct a study on the use of power management software by civilian and military personnel and facilities of the Department of Defense to reduce the use of electricity in computer monitors and personal computers. The study would include recommendations for baseline electric power use, for ensuring robust monitoring and verification of power use requirements on a continuing basis, and for potential technological solutions or best practices for achieving efficiency objectives. The report would be submitted to Congress within 60 days of enactment.

35. Terry (R-NE) #76. Increases by \$10 million, the Defense-wide research, development, test and evaluation account, to be available for the X Lab battlespace laboratory. Reduces by \$10 million, the Navy research, development, test and evaluation account, to be derived from Littoral Combat System Mission Modules.

36. Thompson, Mike (D-CA) #14. Revises DoD command policy to include membership in a criminal street gang among the list of prohibited activities by members of the Armed Forces.

37. Capito (R-WV) #28. Expresses the sense of Congress “that an appropriate site in Arlington National Cemetery should be provided for a memorial marker to honor the memory of the 40 members of the Armed Forces of the United States who lost their lives in the air crash at Bakers Creek, Australia, on June 14, 1943, provided that the Secretary of the Army have exclusive authority to approve the design and site for the memorial marker.” The amendment includes a

long list of findings outlining the sad events surrounding the crash of a military plane during World War II, on June 14, 1943, which crashed only a few minutes after taking off from the Mackay Airport in Australia. There were 41 individuals on the plane that day and only one, Corporal Foye Keenth Roberts of Wichita Falls, Texas, survived the crash.

38. *Israel (D-NY) / Lee (D-CA) #128.* Expresses the sense of Congress “that the U.S., with the concurrence of the Government of Chad, should help provide the for the necessary upgrades to the airfield located in Abeche, Chad, in order to support potential North Atlantic Treaty Organization operations, facilitate a possible United Nations deployment to Chad and the Darfur region of Sudan, and support humanitarian operations.” Requires DoD to submit a report to Congress on the current operational status of the airfield located in Abeche, Chad, and make recommendations for upgrades to the airfield to support enhanced operations and a large increase in air traffic, including a cost-estimate for the upgrades. The amendment also lists a number of findings about the famine in the Southern Sudan and the airfield located between Chad and Sudan which is currently used for military transportation and humanitarian missions.

39. *Israel (D-NY) #19.* Directs DoD to study the methods used by U.S. air carriers and aviation technology companies to research, develop, and deploy commercial aviation technologies, including processes and products, and to determine the applicability of the technologies to military use.

40. *Matheson (D-UT) #52.* Requires the Secretary of the Energy to complete remediation at the Moab site and remove the tailings to the Crescent Junction site in Utah no later than October 1, 2019. According to the sponsor’s office, this amendment would require that “the uranium mill tailings pile, currently located on the banks of the Colorado River, near Utah, be remediated and the tailings removed to Crescent Junction, Utah by October 1, 2019.”

41. *King (R-IA) #95.* Adds language to section 1222 of the bill that states that “Congress recognizes that the U.S. has not established any permanent military installations inside or outside the U.S.” and also states that nothing in this Act or any other provision of law may be construed to prevent the U.S. Government from establishing temporary military installations or based by entering into a basing rights agreement between the U.S. and Iraq.

42. *McCotter (R-MI) #132.* Requires the Secretary of Defense, in concurrence with the Secretary of State, to conduct a “thorough review” of the DoD procedures used to classify defense articles and defense services with military technology components as “excess to the needs of DoD, in order to identify the extent to which existing classification procedures have failed to prevent the transfer of this defense-related information to terrorists, state sponsors of terrorism, and other “unfriendly countries or groups.” Requires the report be submitted with 180 days to Congress, and stipulates that the report must include the measures that DoD will implement to rectify existing deficiencies.

43. *Michaud (D-ME) / Langevin (D-RI) / Ryan, Tim (D-OH) / Harman (D-CA) / Shays (R-CT) / Davis, Susan (D-CA) / Sanchez, Loretta (D-CA) #48.* Requires the Department of Defense to include emergency contraception (“Morning After Pill” or MAP, and marketed as “PlanB”) on the basic core formulary of the uniform formulary, regardless of any other provision

of law that requires that only drugs ordered or prescribed by a physician may be included in the uniform formulary. ***In other words, this provision would require all military pharmacies to stock and distribute PlanB and would not provide for any exceptions or conscience protections for pharmacists who object on moral or religious grounds.*** The amendment states that prior authorization is not required for emergency contraception. The amendment further defines emergency contraception to mean “any drug, drug regimen, or device that is a) approved by the FDA to ‘prevent’ pregnancy, and b) used postcoitally” (i.e. - after sexual intercourse).

Emergency contraception is currently included in the Uniform Formulary (the list of drugs that ***may*** be included at military health care facilities), but facilities are not required to stock this type of drug. Thus, this amendment would include emergency contraception in the Basic Core Formulary, a list of drugs that ***must*** be included at all health care facilities.

According to various estimates, approximately 30 percent of all military facilities stock emergency contraception, and it is widely available over-the-counter at the majority of U.S. pharmacies. PlanB may prevent pregnancy by preventing ovulation or fertilization, but it also may prevent implantation of an already fertilized embryo. Since leading embryology textbooks agree with the position that human life begins with fertilization, many people object to taking, distributing, or selling this drug because it can function as an abortifacient. Reps. Gingrey and Akin attempted to amend this amendment to include conscience protections and notification requirements, but their amendments were not made in order by the Democrat Rules Committee.

Concerned Women for America, Eagle Forum, and the Family Research Council are scoring a “No” on this amendment, and if the amendment passes, will score a “No” on final passage of H.R. 1585. The U.S. Conference of Catholic Bishops is also opposed to this amendment.

44. Boren (D-OK) / Boustany (R-LA) #90. Prohibits anybody from knowingly using the name or image of a member of the Armed Forces for commercial purposes without written permission from the soldier or the soldier’s immediate family. Allows the U.S. Attorney’s office to initiate a civil proceeding in a U.S. district court if anybody has engaged in this activity or is about to engage in this activity.

45. Lipinski (D-IL) #2. Requires the DoD (to the maximum extent feasible) to equip each building constructed or significantly altered with lighting fixtures and bulbs that are energy efficient. Also requires the DoD to utilize energy efficient lighting when replacing fixtures or bulbs in the normal course of building maintenance. Allows the Secretary of Defense to waive these requirements if he determines that a waiver is necessary to protect the national security interest of the U.S.

46. Altmire (D-PA) / Udall, Tom (D-NM) #57. Allows employees who are covered by the Family and Medical Leave Act (FMLA), and whose family member is a member of the Armed Forces and has been called to active duty in a contingency operation, to use FMLA leave to address issues arising from that call to duty (i.e.-child care, etc.). When FMLA leave is foreseeable, it requires the employee to provide notice to the employer as is “reasonable and practicable.” Allows the Secretary of Labor to issue regulations defining the exigencies that qualify for leave under this amendment.

47. Braley (D-IA) #122. Requires the Secretary of Defense to conduct a study of 1) the feasibility of a pilot program on family support services for National Guard and Reserve members, and 2) the feasibility of entering into a contract with a private sector entity to enhance support services for children of National Guard and Reserve members who are deployed.

48. Mitchell (D-AZ) / Space (D-OH) / Walz (D-MN) / Rodriguez (D-TX) #84. Requires DoD to provide a written, voluntary authorization form to service members to enable them to release their medical records to the Veterans Administration. This form must be available to the member prior to DoD releasing medical records to the VA.

49. Carney (D-PA) #59. Expresses the sense of Congress that Ready Reserve (Guard) and Selected Reserve of the Ready Reserve members should have up to ten years to use their education benefits.

50. Walz (D-MN) #56. Requires DoD to study and report back to the House and Senate Armed Services Committees within nine months on the participation rate of service members in the federal tuition assistance program and to assess the extent to which the program affects retention rates.

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